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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,480	01/11/2001	Joseph Wayne Forler	PU 010015	9339

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 06/16/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758,480

Applicant(s)

FORLER ET AL.

Examiner

Vivek Srivastava

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al (6,049,333) in view of Buch et al (6,463,468).

Considering claims 1 and 9, Lajoie discloses a method and apparatus for providing and receiving video content information data from telecasting facility 20 (see fig 2) from any of known broadcasters (see col 5 lines 53 – 58), the video being stored in data storage unit 30 for display on a users TV 58 (see fig 3). Note: broadcasters and data retrieved and transmitted from data storage unit meets the claimed "first source". Lajoie further discloses selecting the type of information to be received, in particular,

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Lajoie discloses selecting from football highlights 76, football game day 72 and football films 78 (see fig 5), noting that the selected information is from data storage 24 which meets the claimed "second source". Lajoie further discloses receiving the selected information and displaying the selected information during display of the program (col 7 lines 57 – 65, col 8 lines 19 – 20, and col 10 lines 30 – 62).

Lajoie fails to disclose wherein the display of the selected information is controlled by a frequency of display parameter that determines when the selected information is displayed. Buch teaches a system which includes a frequency display parameter which enables ads to be displayed at varying frequencies or intervals (see col 5 lines 25 – 37). It would have been obvious to modify Lajoie to include a frequency of display parameter that determines when the selected information is displayed to enable a desirable frequency of display of the selected information from the second source enabling a viewer more time to focus on viewing information from the first and second sources.

Regarding claims 2 and 11, Lajoie discloses selecting a type of information to be received from a information on a variety of topics (see fig 5, fig 9, col 8 lines 49 – 61).

Regarding claims 3 and 10, Lajoie discloses automatically displaying the selected information irrespective of the content of the video (col 7 lines 57 – 65), noting that automatically displaying when tune to a designated channel is irrespective of the content on that channel.

Considering claims 4, 12 and 13, the combination of Lajoie and Buch discloses the claimed limitations wherein Lajoie discloses a user can select display of additional

information and discloses the user can toggle the banner on or off by pressing exit key (col 13 lines 52 – 55) or by pressing the select key (col 14 lines 49 – 55), thus user can select the schedule automatically displaying which includes continuous display and Buch discloses the claimed determining the frequency of display as discussed above.

Regarding claims 5 and 6, Lajoie discloses a user can turn off or on the selected type of received information and discloses the selected type of information is continuously displayed, periodically displayed and displayed during status change (col 8 lines 8 – 19, col 11 lines 14 – 58, col 14 lines 24 – 37). Buch teaches a system which includes a frequency display parameter which enables ads to be displayed at varying frequencies or intervals (see col 5 lines 25 – 37). The combination of Lajoie and Buch fails to disclose the claimed means for selecting between display schedule options of (i) continuous display of the selected type of the received information, (ii) periodic display of the selected type of information and (iii) as a status change event (including a new event) occurs display of the selected type of received information. It would have been obvious to provide a user with a means for selecting between schedule options to provide a user with a choice of how long or when the user chooses to view the selected information thereby also enhancing a user's interactive experience. Therefore, it would have been obvious to modify the combination of Lajoie and Buch to include for selecting between schedule options to provide a user with a choice of how long or when the user chooses to view the selected information thereby also enhancing a user's interactive experience.

Considering claims 7 and 15, Lajoie discloses an on screen menu operable to permit user selection (see fig 5 and fig 9).

Regarding claims 8 and 16, Lajoie discloses the claimed displaying the selected type of information within an image displayed on the display device auxiliary to the display of the video from the first source on the display device (fig 6, fig 7 and fig 9).

Regarding claim 14, Lajoie fails to disclose the claimed means for selecting at least one of as an event changes. It would have been obvious to modify Lajoie to include providing a user with option of selecting displaying of the received information as an event changes to provide a user with the option of receiving new updated event changing information and to enhance a user's interactive experience.

Claim 17 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lajoie in view of Kabushika Kaisha Toshiba (EP 0 766 463 A2) and Buch et al (6,463,468).

Considering claim 17, Lajoie discloses a CPU (36), a first tuner 38 (fig 2) in communication with CPU (36) for receiving program from telecasting facility 20 (see fig 2) from any of known broadcasters (see col 5 lines 53 – 58), the video being stored in data storage unit 30 for display on a users TV 58 (see fig 3). Note: broadcasters and data retrieved and transmitted from data storage unit meets the claimed "first source". Lajoie further discloses the received interactive data is, received from data storage 24 (fig 1, col 5 lines 20 – 35, col 6 lines 15 – 25) which meets the claimed "second source". The interactive or selected data is then forwarded to modem 40 which demodulates the

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information (col 7 lines 1 – 10), noting that modem 40 meets the claimed “auxiliary information parser” limitation and noting that modem 40 is communication with CPU 36. Lajoie further discloses receiving the selected information and displaying the selected information during display of the program (col 7 lines 57 – 65, col 8 lines 19 – 20, and col 10 lines 30 – 62).

Lajoie fails to disclose the claimed second tuner and auxiliary information parser in communication with second tuner. Kabushiki teaches a TV receiver with two tuners for displaying text and/or graphics on a television picture. It would have been obvious to one skilled in the art providing two tuner would have provided faster tuning and retrieval of data in lieu of using one tuner. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lajoie to include the claimed two tuners to provide faster tuning and retrieval of data.

Lajoie fails to disclose wherein the display of the selected information is controlled by a frequency of display parameter that determines when the selected information is displayed. Buch teaches a system which includes a frequency display parameter which enables ads to be displayed at varying frequencies or intervals (see col 5 lines 25 – 37). It would have been obvious to modify Lajoie to include a frequency of display parameter that determines when the selected information is displayed to enable a desirable frequency of display of the selected information from the second source enabling a viewer more time to focus on viewing information from the first and second sources.

Considering claims 18, Lajoie discloses a graphics processor 44 operable to permit user selection (see col 6 lines 26 – 54 and col 8 lines 20 – 38, see fig 5 and fig 9).

Considering claim 19, the combination of Lajoie and Buch discloses the claimed limitations, wherein Lajoie discloses a user can select display of additional information and discloses the user can toggle the banner on or off by pressing exit key (col 13 lines 52 – 55) or by pressing the select key (col 14 lines 49 – 55), thus user can select the schedule which includes continuous display, and Buch teaches the frequency of display parameter controlling the display as discussed above.

Regarding claim 20, Lajoie discloses the claimed displaying the selected type of information within an image displayed on the display device auxiliary to the display of the video from the first source on the display device (fig 6, fig 7 and fig 9).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Anderson et al (6,219,042) – Internet connectivity based on user inactivity

Weinstein et al (6,604,242) – Combining TV and personalized interactive info

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872 - 9314, (for formal communications intended for entry)

Or:

(703) 308- 5399 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Vivek Srivastava whose telephone number is (703) 305 - 4038.

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The examiner can normally be reached on Monday - Thursday from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andy Faile, can be reached at (703) 305 - 4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305 - 3900.

VS

6/9/04



VIVEK SRIVASTAVA
PRIMARY EXAMINER